

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC.,

Plaintiff,

v.

AIMJUNKIES.COM; PHOENIX DIGITAL
GROUP, LLC; DAVID SCHAEFER; JORDAN
GREEN; JEFFREY CONWAY AND JAMES
MAY,

Defendants.

No. 2:21-cv-811

**PLAINTIFF BUNGIE, INC.’S
UNOPPOSED MOTION TO SEAL**

NOTE ON MOTION CALENDAR:
April 14, 2023

At the request of Defendants AimJunkies.com, Phoenix Digital Group, LLC (“Phoenix Digital”), David Schaefer, Jordan Green, Jeffrey Conway, and James May (collectively, “Defendants”), Plaintiff Bungie, Inc. (“Bungie”), pursuant to LCR 5(g) and the Stipulated Protective Order entered by the Court in this matter (Dkt. No. 60), hereby moves to file under seal Exhibit T to the Supplemental Declaration of Christian W. Marcelo in Support of Bungie’s Motion for Discovery Sanctions and to Compel Discovery Responses (“Supp. Marcelo Decl.”), and the accompanying references to this exhibit, and other exhibits previously filed under seal, and information in Bungie’s Reply in Support of Bungie’s Motion for Discovery Sanctions and to Compel Discovery Responses (the “Reply”).

A party may file a document under seal without prior court approval “[i]f the party files a motion or stipulated motion to seal the document . . . at the same time the party files the sealed

PLAINTIFF’S MOT. TO FILE UNDER SEAL
(No. 2:21-cv-811) – 1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: +1.206.359.8000
Fax: +1.206.359.9000

1 document.” LCR 5(g)(2)(B). The contemporaneous motion must include a certification that the
2 parties met and conferred about the need to file the document under seal, the ability to minimize
3 the material filed under seal, and the possibility of exploring alternatives to filing under seal. LCR
4 5(g)(3)(A). Where the parties have entered a stipulated protective order, a party wishing to file
5 confidential documents it obtained from another party in discovery may file a motion to seal but
6 need not provide a specific statement of the applicable legal standard and the reasons for keeping
7 a document under seal. LCR 5(g)(3)(B).

8 Here, the exhibit that Bungie intends to file under seal consists of excerpts of deposition
9 transcripts from David Schaefer that were taken in the parallel JAMS arbitration proceeding
10 between the same parties, and which were designated in their entirety as Confidential by
11 Defendants. Bungie has an obligation to maintain the confidentiality of this information under the
12 Stipulated Protective Order in this case and the virtually identical order in the arbitration
13 proceeding.

14 On April 13, 2023, Bungie’s counsel notified counsel for Defendants via email of its intent
15 to file Exhibit T to the Supplemental Marcelo Declaration in connection with its Reply, including
16 the specific portions of the deposition testimony to be cited, and asked Defendants to confirm
17 whether they intended to assert confidentiality over those portions of the transcript. Defendants’
18 counsel stated that “I have passed this on to my clients which parts they still want to designate as
19 ‘confidential’ or ‘highly confidential.’ I hope to have that for you early next week.”

20 A proposed order accompanies this motion.
21
22
23
24
25
26

1 Dated: April 14, 2023

By: /s/Christian W. Marcelo

Christian W. Marcelo, Bar No. 51193

William C. Rava, Bar No. 29948

Jacob P. Dini, Bar No. 54115

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101-3099

Telephone: +1.206.359.8000

Facsimile: +1.206.359.9000

WRava@perkinscoie.com

CMarcelo@perkinscoie.com

JDini@perkinscoie.com

Attorneys for Plaintiff Bungie, Inc.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PLAINTIFF'S MOT. TO FILE UNDER SEAL
(No. 2:21-cv-811) -3

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: +1.206.359.8000
Fax: +1.206.359.9000